

# SENATE, No. 851

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Senators Lesniak, Whelan, Bateman, Turner, A.R.Bucco and Scutari**

**SYNOPSIS**

Extends limited protection from certain penalties if medical assistance is sought for drug overdose victim in certain cases.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 6/22/2012)**

1 AN ACT concerning drug overdose prevention and supplementing  
2 Title 2C of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Good  
8 Samaritan Emergency Response Act.”

9

10 2. The Legislature finds and declares that encouraging witnesses  
11 and victims of drug overdoses to seek medical assistance by  
12 protecting them, in instances where evidence was gained as a result  
13 of the seeking of medical assistance, from: arrest, charge,  
14 prosecution, and conviction; penalties for parole and restraining  
15 order violations; and civil forfeiture of property; saves lives and is  
16 in the best interests of the citizens of this State.

17

18 3. As used in this act:

19 “Drug overdose” means an acute condition including, but not  
20 limited to, physical illness, coma, mania, hysteria, or death resulting  
21 from the consumption or use of a controlled dangerous substance or  
22 another substance with which a controlled dangerous substance was  
23 combined and that a layperson would reasonably believe to be a  
24 drug overdose that requires medical assistance.

25 “Share” or “sharing” means providing a controlled dangerous  
26 substance, drug paraphernalia, or a hypodermic syringe,  
27 hypodermic needle, or any other instrument adapted for the use of a  
28 controlled dangerous substance or a controlled substance analog to  
29 another person without consideration or compensation.

30

31 4. a. A person who, in good faith, seeks medical assistance for  
32 someone experiencing a drug overdose shall not be:

33 (1) arrested, charged, prosecuted, or convicted for obtaining,  
34 possessing, using, or being under the influence of a controlled  
35 dangerous substance pursuant to N.J.S.2C:35-10;

36 (2) arrested, charged, prosecuted, or convicted for possessing an  
37 imitation controlled dangerous substance pursuant to subsection a.  
38 of N.J.S.2C:35-11;

39 (3) arrested, charged, prosecuted, or convicted for using or  
40 possessing with the intent to use drug paraphernalia pursuant to  
41 N.J.S.2C:36-2 or for possessing a hypodermic syringe, hypodermic  
42 needle, or any other instrument adapted for the use of a controlled  
43 dangerous substance or a controlled substance analog pursuant to  
44 subsection a. of N.J.S.2C:36-6;

45 (4) arrested, charged, prosecuted, or convicted for sharing or  
46 possessing with the intent to share a controlled dangerous  
47 substance, drug paraphernalia, or a hypodermic syringe,

- 1 hypodermic needle, or any other instrument adapted for the use of a  
2 controlled dangerous substance or a controlled substance analog;
- 3 (5) subject to the any of the penalties prescribed in section 5 of  
4 P.L.1999, c.334 (C.2C:35-5.8) for a violation of a restraining order  
5 issued pursuant to section 4 of P.L.1999, c.334 (C.2C:35-5.7);
- 6 (6) subject to any sanction for a violation of a condition of parole  
7 as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-  
8 123.60 through 30:4-123.65);
- 9 (7) subject to the revocation or modification of the conditions of  
10 probation; or
- 11 (8) subject to the provisions of N.J.S.2C:64-1 concerning  
12 property subject to forfeiture except that prima facie contraband  
13 shall be subject to forfeiture.
- 14 b. The provisions of subsection a. of this section shall only  
15 apply if:
- 16 (1) the person seeks medical assistance for another person who is  
17 experiencing a drug overdose and is in need of medical assistance;  
18 and
- 19 (2) the evidence for an arrest, prosecution, conviction, penalty,  
20 violation, revocation, modification, or seizure was gained as a result  
21 of the seeking of medical assistance.
- 22
- 23 5. a. A person who experiences a drug overdose and who seeks  
24 medical assistance or is the subject of a good faith request for  
25 medical assistance pursuant to section 4 of this act shall not be:
- 26 (1) arrested, charged, prosecuted, or convicted for obtaining,  
27 possessing, using, or being under the influence of a controlled  
28 dangerous substance pursuant to N.J.S.2C:35-10;
- 29 (2) arrested, charged, prosecuted, or convicted for possessing an  
30 imitation controlled dangerous substance pursuant to subsection a.  
31 of N.J.S.2C:35-11;
- 32 (3) arrested, charged, prosecuted, or convicted for using or  
33 possessing with the intent to use drug paraphernalia pursuant to  
34 N.J.S.2C:36-2 or for possessing a hypodermic syringe, hypodermic  
35 needle, or any other instrument adapted for the use of a controlled  
36 dangerous substance or a controlled substance analog pursuant to  
37 subsection a. of N.J.S.2C:36-6;
- 38 (4) arrested, charged, prosecuted, or convicted for sharing or  
39 possessing with the intent to share a controlled dangerous  
40 substance, drug paraphernalia, or a hypodermic syringe,  
41 hypodermic needle, or any other instrument adapted for the use of a  
42 controlled dangerous substance or a controlled substance analog;
- 43 (5) subject to the any of the penalties prescribed in section 5 of  
44 P.L.1999, c.334 (C.2C:35-5.8) for a violation of a restraining order  
45 issued pursuant to section 4 of P.L.1999, c.334 (C.2C:35-5.7);

1 (6) subject to any sanction for a violation of a condition of parole  
2 as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-  
3 123.60 through 30:4-123.65);

4 (7) subject to the revocation or modification of the conditions of  
5 probation; or

6 (8) subject to the provisions of N.J.S.2C:64-1 concerning  
7 property subject to forfeiture except that prima facie contraband  
8 shall be subject to forfeiture.

9 b. The provisions of subsection a. of this section shall only  
10 apply if the evidence for an arrest, prosecution, conviction, penalty,  
11 violation, revocation, modification, or seizure was gained as a result  
12 of the seeking of medical assistance.

13

14 6. The act of seeking medical assistance for someone who is  
15 experiencing a drug overdose shall be considered a mitigating  
16 circumstance in a criminal prosecution for a violation of an offense  
17 defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes.

18

19 7. Notwithstanding any other law, rule, or regulation to the  
20 contrary, it shall be an affirmative defense in any criminal  
21 prosecution for a violation of N.J.S.2C:35-9 if evidence was gained  
22 as a result of seeking or receiving medical assistance pursuant to  
23 section 4 or 5 of this act.

24

25 8. This act shall take effect immediately.

26

27

28

#### STATEMENT

29

30 The Good Samaritan Emergency Response Act is intended to  
31 save lives in the State of New Jersey by providing timely medical  
32 attention to the victims of drug overdoses. Deaths from drug  
33 overdoses are the leading cause of accidental death in New Jersey,  
34 but many of these deaths could be prevented if medical assistance  
35 were sought immediately. It is the sponsor's intent to address the  
36 fear of arrest and prosecution which prevents people from seeking  
37 appropriate assistance in the face of a medical emergency by  
38 offering limited protection from certain drug charges.

39 The bill protects the witness and victim of a drug overdose from  
40 being subject to:

- 41 • an arrest, charge, prosecution, or conviction for: (1)  
42 obtaining, possessing, using, or being under the influence of  
43 a controlled dangerous substance; (2) possessing an  
44 imitation controlled dangerous substance; (3) using or  
45 possessing with the intent to use drug paraphernalia or for  
46 possessing a hypodermic syringe or needle; (4) sharing or  
47 possessing with the intent to share a controlled dangerous

**S851 VITALE, WEINBERG**

5

- 1 substance, drug paraphernalia, or a hypodermic syringe or  
2 needle;
- 3 • any penalty prescribed for a violation of a restraining order;
  - 4 • any sanction for a violation of a condition of parole;
  - 5 • the revocation or modification of the conditions of
  - 6 probation; or
  - 7 • civil forfeiture, except for prima facie contraband.

8 In addition, the bill specifies that the act of seeking medical  
9 assistance for someone experiencing a drug overdose is to be  
10 considered by the court as a mitigating factor in a prosecution for  
11 other drug offenses and that the act of seeking medical assistance is  
12 an affirmative defense against a prosecution for strict liability for a  
13 drug-induced death.